

BOARD OF PUBLIC WORKS AND SAFETY MEETING

CITY OF HAMMOND, INDIANA

IN THE MATTER OF:)
)
Hearing on property located)
at 6609 Jefferson, Hammond,)
Indiana)

BEFORE THE BOARD OF PUBLIC WORKS:

Mr. Stan Dostatni
Ms. Heather Garay
Mr. Kevin Margraf

Conducted on: January 12, 2017
9:21 a.m.

Hammond City Hall
2nd Floor Council Chambers
5925 Calumet Avenue
Hammond, Indiana 46320

A STENOGRAPHIC RECORD

BY: Catherine M. Stefaniak, CSR
Notary Public
Stenographic Reporter

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1 meters for five apartments and a common area, is
2 that correct, or public area?

3 A. Where did I give that testimony? In a deposition?
4 Was that in my deposition? I would like to read
5 that.

6 Q. Certainly. Well, let me ask you that. Do you
7 believe that Mr. Koch testified to that earlier?

8 A. I agree completely with what Mr. Koch had testified
9 to.

10 Q. Okay. So -- and you believe that six meters for
11 a -- is required -- was required in 1927 for a
12 five-unit apartment plus a public area?

13 MR. MCNAMARA: Objection. Objection. Besides
14 being irrelevant, I believe that misstates
15 Mr. Koch's testimony as well as Mr. Kearney's
16 testimony at any time.

17 MR. VOSTI: I don't think it's irrelevant.
18 You've got his before -- the notices of violation.
19 I mean, why are they afraid of the truth?

20 MS. GARAY: Mr. Vosti, I believe several
21 questions ago you asked the witness whether or not
22 he could testify towards the 1927 code. And he
23 stated that he does not have that in front of him
24 and is not able to do so.

25

1 MR. VOSTI:

2 Q. Did you receive a subpoena from me to bring some
3 documentation to this hearing supporting what --

4 A. Everything --

5 Q. You received that subpoena?

6 A. Yes.

7 Q. Did you bring any --

8 A. Everything that you're asking for is under the
9 Unsafe Building Act.

10 Q. I'm sorry. My question was: Did you bring any of
11 that material in the subpoena I served you?

12 MR. MCNAMARA: I will insert an objection
13 here. The subpoena asked for documents that are
14 not in our possession. They were all statutes,
15 ordinances. These are all code citations. The
16 basis of his opinions are all the Indiana Unsafe
17 Building Law, and we don't have to bring copies of
18 statutes or ordinances that may be or may not be
19 cited.

20 MR. VOSTI:

21 Q. So you acknowledge receiving the subpoena, but you
22 acknowledge not --

23 MR. MCNAMARA: We don't have to --

24 MR. VOSTI:

25 Q. -- complying with it?

1 MR. MCNAMARA: We don't have to create
2 documents that are not in our possession.

3 MR. VOSTI: I asked him to bring them.

4 MR. MCNAMARA: We don't have to create
5 documents and we don't have to bring things that
6 are not in our possession.

7 MR. VOSTI: So the state law, the city code
8 and any other documentation that I've asked him to
9 bring that he relies on for his -- his notice of
10 violations that he's signed, he does not have
11 access to those? Is that what you're saying?

12 MR. MCNAMARA: I'm not saying he doesn't have
13 access to those.

14 MR. VOSTI: He doesn't have those in his
15 possession? The City does not have the
16 documentation to support its allegations that 20 or
17 46 items are against code?

18 MR. MCNAMARA: That's not what I said.

19 MR. MCCRUM: The statutes exist in any public
20 library for anyone to obtain. You're asking
21 whether we're obliged to produce by way of a
22 subpoena documents that would be proprietary. We
23 don't have anything like that. You have access to
24 statutes as well as any other lawyer that practices
25 within the State of Indiana.

1 MR. VOSTI: But I asked for the ones that
2 particularly he relied on in particular.

3 MR. MCCRUM: Which are identified in the
4 notice that's already been offered in the exhibit.

5 MR. VOSTI: Let's move on. Let's move on.

6 Q. Okay. Mr. Kearney, is it your belief that there
7 was no difference in the codes in 1927 for a
8 single-family and a multi-family?

9 MR. MCNAMARA: Objection. The codes speak for
10 themselves. What he believes about the codes --

11 MR. VOSTI: He's the head of the City. He's
12 the one bringing these things. I'm asking him what
13 he believes.

14 MR. MCNAMARA: His beliefs are irrelevant.
15 The code is what the code is.

16 MR. VOSTI: Well, his beliefs are relevant
17 because that what -- that is what compels him to
18 perform his city function. And his belief on --

19 Q. Do you have a problem with answering that question,
20 Mr. Kearney?

21 A. Could you repeat the question first? Yes, repeat
22 it, please.

23 Q. Do you believe there are different codes, 1927, for
24 a single-family or a multi-unit building?

25 A. Yes, I do.

1 by Mr. Koch. Otherwise, if we -- if we decided
2 that no old building could ever require repair and
3 have the City fine these buildings to make repairs,
4 prior to 1984, I mean, I'm hearing, forget about
5 it. 1984 -- if it's built before 1984, there's
6 nothing you can do about it. You know there's
7 unsafe conditions. You know people are subject to
8 risks of perishing in a fire. Sorry. That's just
9 the way it goes. Well, that's not the law. That's
10 not the law. And the Indiana Unsafe Building Law
11 charges us with responsibilities. And the Board
12 has responsibility. And we would encourage the
13 Board to affirm the findings that were made by the
14 City in regard it this property. Thank you.

15 MR. DOSTATNI: Thank you.

16 MR. MARGRAF: Thank you.

17 MS. GARAY: Thank you.

18 MR. DOSTATNI: We'd like both sides to submit
19 their written findings and order. How long do you
20 guys think that's going to take.

21 MR. MCCRUM: Two weeks.

22 MR. DOSTATNI: Two weeks. And then we'll come
23 up with a decision in short -- shortly thereafter.
24 We've got a lot of material here to review. Plus,
25 we'd like to have your findings in writing.